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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,417	05/31/2001	Eliot M. Case	1811 USW 0610 PUSP	9277

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EXAMINER

HAROLD, JEFFEREY F

ART UNIT PAPER NUMBER

2644

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/871,417

Applicant(s)

CASE ET AL.

Examiner

Jefferey F Harold

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. ***Claims 1-6, 10, 14-16*** are rejected under 35 U.S.C. 102(b) as being anticipated by applicant's admitted prior art.

Regarding **claim 1**, applicant's admitted prior art discloses a computer to telephone interface card comprising: a plurality of audio data input ports for receiving audio input data from the computer; a mixer having a plurality of inputs in communication with the plurality of audio data input ports, and having an output, the plurality of mixer inputs receiving the audio input data and the mixer, in real-time, generating a mixed audio output data signal at the mixer output; and a converter having an input receiving the mixed audio output data signal, and having an output for connecting to a phone line to generate and provide mixed audio output to the phone line based on the audio input data received at the plurality of audio data input ports, as disclosed in the specification on page 6, lines 15-21 and page 7, lines 7-17.

Regarding **claim 2**, applicant's admitted prior art discloses everything claimed as applied above (see claim 1), in addition, applicant's admitted prior art discloses wherein the converter further comprises: a digital-to-analog converter, as disclosed in the specification on page 2, lines 5-9.

Regarding **claim 3**, applicant's admitted prior art discloses everything claimed as applied above (see claim 1), in addition, applicant's admitted prior art discloses wherein the converter further comprises: a format converter, as disclosed in the specification on page 2, lines 5-9.

Regarding **claim 4**, applicant's admitted prior art discloses everything claimed as applied above (see claim 1), in addition, applicant's admitted prior art discloses a plurality of buffered audio data input ports, as disclosed in the specification on page 6, lines 15-22.

Regarding **claims 6, 10, and 14-16** are interpreted and thus rejected for the reasons set forth above in the rejection of claims 1-5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Duplan Corp. v Deering Milliken, Inc.

Regarding **claim 5**, applicant's admitted prior art discloses everything claimed as applied above (see claim 4), however, applicant's admitted prior art fails to disclose a switch configured to receive the audio input data from the computer and to distribute the data to the plurality of audio data input ports. However, the examiner maintains that it

was well known in the art to provide a switch configured to receive the audio input data from the computer and to distribute the data to the plurality of audio data input ports, as taught by Duplan Corp. v Deering Milliken, Inc.

In Duplan Corp. v Deering Milliken, Inc it is disclosed that there can be no invention in merely providing means to selectively alternate between one unpatentable configuration of elements and another unpatentable configuration of old elements, where there is no new or different function.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify applicant's admitted prior art by specifically providing a switch configured to receive the audio input data from the computer and to distribute the data to the plurality of audio data input ports, as taught by Duplan Corp. v Deering Milliken, Inc., for the purpose of alternating input sources.

***Allowable Subject Matter***

3. ***Claims 7-9 and 11-13*** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F Harold whose telephone number is 703-306-5836. The examiner can normally be reached on Monday - Friday 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JFH  
December 7, 2004



Jefferey F Harold  
Examiner  
Art Unit 2644